

ESTTA Tracking number: **ESTTA492687**Filing date: **09/05/2012**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Notice of Opposition**

Notice is hereby given that the following parties oppose registration of the indicated application.

**Opposers Information**

Name	Gander Mountain Company
Granted to Date of previous extension	09/05/2012
Address	180 East Fifth Street Suite 1300 St. Paul, MN 55101 UNITED STATES

Name	Overton's, Inc.		
Entity	Corporation	Citizenship	North Carolina
Address	111 Red Banks Road Greenville, NC 27834 UNITED STATES		

Attorney information	Jeffrey R. Cadwell Dorsey & Whitney LLP 50 South Sixth Street Suite 1500 Minneapolis, MN 55402 UNITED STATES ip.docket@dorsey.com, cadwell.jeffrey@dorsey.com
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**Applicant Information**

Application No	85483797	Publication date	05/08/2012
Opposition Filing Date	09/05/2012	Opposition Period Ends	09/05/2012
Applicant	JPM, Inc. 1165 Fremont Court Elkhart, IN 46516 UNITED STATES		

**Goods/Services Affected by Opposition**


Class 012. First Use: 2011/12/01 First Use In Commerce: 2011/12/01 All goods and services in the class are opposed, namely: Boat and marine seats
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**Grounds for Opposition**


Priority and likelihood of confusion	Trademark Act section 2(d)
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**Marks Cited by Opposer as Basis for Opposition**


U.S. Registration No.	2308937	Application Date	10/07/1998
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Registration Date	01/18/2000	Foreign Priority Date	NONE
Word Mark	DOCKMATE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 017. First use: First Use: 1998/05/04 First Use In Commerce: 1998/05/04 Protective dock bumpers manufactured from copolymer or from polyethelene with indentations for using bolts to attach the bumpers to docks		


U.S. Registration No.	3216132	Application Date	04/09/2004
Registration Date	03/06/2007	Foreign Priority Date	NONE
Word Mark	DOCKMATE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 022. First use: First Use: 2006/07/00 First Use In Commerce: 2006/07/00 Ropes; dock line		

U.S. Registration No.	3307757	Application Date	04/09/2004
Registration Date	10/09/2007	Foreign Priority Date	NONE
Word Mark	DOCKMATE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 006. First use: First Use: 2006/02/00 First Use In Commerce: 2006/02/00 Metal dock cleats; metal ladders		

U.S. Registration No.	3402235	Application Date	04/09/2004
Registration Date	03/25/2008	Foreign Priority	NONE

		Date	
Word Mark	DOCKMATE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 012. First use: First Use: 2007/04/29 First Use In Commerce: 2007/04/29 Boat fenders		

U.S. Registration No.	3449927	Application Date	04/09/2004
Registration Date	06/17/2008	Foreign Priority Date	NONE
Word Mark	DOCKMATE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 020. First use: First Use: 2006/03/01 First Use In Commerce: 2006/03/01 Non-metal dock cleats; non-metal dock boxes; non-metal boat mooring whips; and float drums for boat docks		

U.S. Registration No.	3449928	Application Date	04/09/2004
Registration Date	06/17/2008	Foreign Priority Date	NONE
Word Mark	DOCKMATE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 019. First use: First Use: 2006/03/01 First Use In Commerce: 2006/03/01 Dock products, namely, dock wheels, non-metal piling caps, bumpers, cushions, and non-metal profiles and pads for pilings or dock posts		

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## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Jeffrey R. Cadwell/
Name	Jeffrey R. Cadwell
Date	09/05/2012

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of trademark application Serial No.:  
Filed:  
For the mark:  
Published in the Official Gazette on:

85/483,797  
November 30, 2011  
**DECKMATE**  
May 8, 2012

Gander Mountain Company and  
Overton's, Inc.

Opposers,

vs.

JPM, Inc.

Applicant.

Opposition No: \_\_\_\_\_

Opposer's File No.: M232120

Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

**NOTICE OF OPPOSITION**

Opposers, Gander Mountain Company ("Gander Mountain"), a Minnesota corporation having a place of business at 180 East Fifth Street, Suite 1300, St. Paul, Minnesota 55101, and Overton's, Inc. ("Overton's"), a North Carolina corporation having a place of business at 111 Red Banks Road, Greenville, North Carolina 27834 and a wholly-owned subsidiary of Gander Mountain Company (each an "Opposer," collectively, "Opposers") believe that they will be damaged by registration of the mark shown in the above-identified application, and hereby oppose the same under the provisions of Title 15 of the U.S. Code, including, but not limited to, Sections 1052 and 1063.

The grounds for opposition are as follows:

1. Overton's is a wholly-owned subsidiary of and is in privity with Gander Mountain.
2. Applicant, JPM, Inc. ("Applicant"), a company organized under the laws of Indiana and having a place of business at 1165 Fremont Court, Elkhart, Indiana 46516, applied

for registration on the Principal Register for the mark **DECKMATE** on November 30, 2011, for "boat and marine seats" ("Applicant's Goods") in International Class 12. The application was filed on intent-to-use basis pursuant to Section 1(b) of the Lanham Act, 15 U.S.C. 1051(b), but Applicant filed an amendment to allege use on December 30, 2011, which the United States Patent and Trademark Office subsequently accepted. The application was published for opposition on May 8, 2012.

3. Gander Mountain requested and was granted an initial 30-day extension of the deadline to file an opposition by the Trademark Trial and Appeal Board ("TTAB"), which extended the deadline to July 7, 2012.

4. Gander Mountain thereafter requested and was granted a 60-day extension of the deadline to file an opposition by the TTAB, which extended the deadline to September 5, 2012.

5. Overton's is a national retailer of marine and water sports products and accessories. Since 1976, Overton's has offered an expanding assortment of high quality, competitively priced merchandise featuring national, regional, and specialty brands, as well as its own private label brands.

6. Overton's operates two retail locations in North Carolina, and sells products nationwide via its catalogs and its e-commerce website <[www.overtons.com](http://www.overtons.com)>.

7. One of Overton's' core brands is **DOCKMATE**, which is the subject of six federal registrations for various boating and dock products and accessories, each of which is individually described in Paragraphs 8 through 13 below.

8. Overton's is the owner of U.S. Trademark Registration No. 2,308,937, for the mark **DOCKMATE**, registered January 18, 2000, on the Principal Register for use in connection with "protective dock bumpers manufactured from copolymer or from polyethelene with indentations for using bolts to attach the bumpers to docks" in International Class 17.

9. Overton's is the owner of U.S. Trademark Registration No. 3,216,132, for the mark **DOCKMATE**, registered March 6, 2007, on the Principal Register for use in connection with "ropes; dock line" in International Class 22.

10. Overton's is the owner of U.S. Trademark Registration No. 3,307,757, for the mark **DOCKMATE**, registered October 9, 2007, on the Principal Register for use in connection with "metal dock cleats; metal ladders" in International Class 6.

11. Overton's is the owner of U.S. Trademark Registration No. 3,402,235, for the mark **DOCKMATE**, registered March 25, 2008, on the Principal Register for use in connection with "boat fenders" in International Class 12.

12. Overton's is the owner of U.S. Trademark Registration No. 3,449,927, for the mark **DOCKMATE**, registered June 17, 2008, on the Principal Register for use in connection with "non-metal dock cleats; non-metal dock boxes; non-metal boat mooring whips; and float drums for boat docks" in International Class 20.

13. Overton's is the owner of U.S. Trademark Registration No. 3,449,928, for the mark **DOCKMATE**, registered June 17, 2008, on the Principal Register for use in connection with "dock products, namely, dock wheels, non-metal piling caps, bumpers, cushions, and non-metal profiles and pads for pilings or dock posts" in International Class 19.

14. There is no question as to priority. Overton's has used the **DOCKMATE** mark since at least as early as May 4, 1998, well before the December 1, 2011, first use date and the November 30, 2011, filing date of the opposed application.

15. Applicant's **DECKMATE** trademark is confusingly similar to Overton's' **DOCKMATE** trademark, due to, inter alia, the similarity of the respective marks' appearance and overall commercial impression.

16. The goods covered by Overton's' **DOCKMATE** trademark registrations and those goods proposed for sale by Applicant in connection with the **DECKMATE** trademark are both closely related and complementary in many respects, are likely to be offered in the same

channels of commerce, and are likely to be offered to the same class of purchasers. Indeed, Overton's sells goods that compete directly with Applicant's Goods, i.e., boat and marine seats, under both its **TOONMATE** and **OVERTON'S** brands.

17. Neither Opposer has licensed, sponsored, or authorized the use of the **DOCKMATE** trademark by Applicant in connection with the Applicant's Goods.

18. Registration of Applicant's mark **DECKMATE** proposed for use in connection with Applicant's Goods is likely to cause confusion or mistake or is likely to deceive purchasers as to the source or sponsorship of such goods.

WHEREFORE, Opposers pray that the application for the mark **DECKMATE**, Serial No. 85/483,797, be rejected and that the registration for that mark be refused under Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

Respectfully submitted,

GANDER MOUNTAIN COMPANY  
OVERTON'S, INC.

Date: September 5, 2012

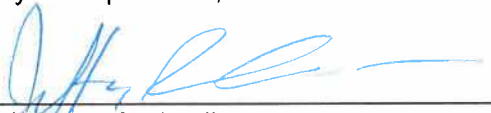
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**CERTIFICATE OF ELECTRONIC TRANSMISSION**

I hereby certify that this correspondence is being transmitted electronically through ESTTA pursuant to 37 C.F.R. § 2.195(a) on this 5th day of September, 2012.

  
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Jeffrey R. Cadwell,  
Attorney for Opposers

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing document has been served via first-class mail, postage prepaid, to Jonathan R. Slabaugh, counsel for Applicant, at Cosentino & Christofeno, 115 West Lexington Avenue, P.O. Box 1866, Elkhart, Indiana 46515-1866 , this 5th day of September, 2012.

  
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Jeffrey R. Cadwell,  
Attorney for Opposers